



S.A.(MD)No.338 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.06.2023**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

S.A.(MD)No.338 of 2017

and

C.M.P.(MD)No.7248 of 2017

1.Sri Ponnaiyah Ramajayathammal Educational
and Charitable Trust,
Rep. by its Managing Trustee,
P.Murugesan.

2.Ponnaiyah Ramajayam Group of Institutions,
Rep. by its Chairman,
P.Murugesan.

... Appellants

/Vs./

S.Mani

... Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code to set aside the Judgment and Decree dated 15.11.2016 in A.S.No. 54 of 2014 on the file of the Additional Subordinate Judge, Thanjavur, confirming the judgment and decree dated 17.09.2013 in O.S.No.266 of 2006 on the file of the District Munsif, Thanjavur by allowing this appeal.



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For Appellants : Mr.V.Muthukamatchi

For Respondent : Mr.S.Madhavan

JUDGMENT

This second appeal has been filed challenging the concurrent findings of the Courts below. The appellants are the defendants in the suit in O.S.No.266 of 2006 on the file of the District Munsif Court, Thanjavur. The respondent is the plaintiff in the said suit. The suit was filed seeking for compensation of two months pay totalling Rs.50,000/- and Rs.10,000/- as nominal compensation for the mental agony, mental torture and loss of reputation suffered by the respondent / plaintiff. In the forthcoming paragraphs, the parties are described as per their litigative status in the suit.

2. As seen from the plaint, the plaintiff was employed as Consultant by the defendants and his case is that he was illegally terminated from his service with effect from 01.05.2003 without any prior notice. According to the plaintiff, as per the contract of



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employment, he ought to have been given two months notice by the defendants before terminating his service. In such circumstances, the plaintiff claims that he has not been paid two months pay amounting to Rs.50,000/- and that he had suffered mental agony, mental torture and loss of reputation, for which he has claimed compensation amount of Rs.10,000/-.

3. However, the defendants in their written statement have disputed the same and according to them, only by following the procedure established under law, the plaintiff's service was terminated and hence, according to them, the plaintiff is not entitled for the suit claim.

4. Based on the pleadings of the respective parties, the trial Court framed issues, which are as follows:

- (a) Whether there is cause of action for the plaintiff to file the suit?;
- (b) Whether the suit is barred by limitation?;
- (c) Whether the Court has jurisdiction to entertain the suit?;



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(d) Whether the plaintiff is entitled for declaration?;

(e) Whether the plaintiff is entitled for two months salary, ie., Rs.50,000/-?;

(f) Whether the plaintiff is entitled for compensation at Rs.10,000/- for mental agony, mental torture, mental stress and loss of reputation?; and

(g) To what other reliefs?.

5. Before the trial Court, the plaintiff filed 9 documents, which were marked as Exs.A1 to A9. The plaintiff himself was examined as a witness, P.W.1. On the side of the defendants, no oral and documentary evidence was let in.

6. Based on the oral and documentary evidence, the trial Court, namely, District Munsif Court, Thanjavur, in its judgment and decree dated 17.09.2013 in O.S.No.266 of 2006 decreed the suit in favour of the plaintiff as prayed for in the plaint by giving the following findings:

(a) The defendants did not file any documents to prove that the plaintiff had requested for relieving him from employment;



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(b) Though the defendants have pleaded in their written statement that the plaintiff was irregular in his service, no documentary evidence was produced by them to support their stand;

(c) The contract of employment stipulates that two months notice will have to be given before terminating the service of the plaintiff. Having not given any such notice, the termination of the plaintiff's service is illegal;

(d) Two months salary has not been paid by the defendants as claimed by the plaintiff as seen from the oral and documentary evidence placed on record;

(e) The plaintiff would have suffered mental agony, mental torture and loss of reputation on account of his illegal termination by the defendants;

and hence, the plaintiff is entitled to Rs.10,000/- as compensation towards mental agony and loss of reputation as claimed in the plaint.

7. The suit is filed within the limitation, ie, within the period of three years from the date of termination. The termination order, Ex.A3 is dated 30.04.2003 and the suit was filed on 01.06.2006. 30.04.2006 falls



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on Sunday and the period between 01.05.2006 and 31.05.2006 being Court vacation, the suit having been filed on the next working day, ie., 01.06.2006 is within the period of limitation.

8. Aggrieved by the findings of the trial Court in its judgment and decree dated 17.09.2013 in O.S.No.266 of 2006 as referred to supra, the defendants filed the first appeal before the Additional Sub Court, Thanjavur in A.S.No.54 of 2014. The lower appellate Court also confirmed the findings of the trial Court by dismissing the first appeal. Aggrieved by the concurrent findings of the Courts below, this second appeal has been filed. This Court, on 09.08.2017, admitted this second appeal by formulating the following substantial questions of law:

"1. Whether the Courts below correct in granting decree for consequential relief of compensation after dismissing the main relief of declaration of termination order, dated 30.04.2003 under Ex.A.3 is null and void?

2. Whether the Courts below correct in granting the relief of compensation without any declaration of termination is illegal as against Section 34 of the Specific Relief Act?



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3. Whether the Courts below correct in granting the decree for consequential relief of compensation only on the ground that the defendant did not appear without considering the maintainability of the consequent relief after dismissal of the declaration of termination order is legal?

4. Whether both the Courts correct in not dismissing suit's consequential relief of compensation by holding that conditional clause of 10 of Ex.A.2 not applicable in the case acceptance of resignation by passing the impugned relieving order Ex.A.3 without admitting oral evidence to contradict contents of Ex.A.3 in contravention of Sections 91 and 92 of the Indian Evidence Act?"

9. Admittedly, no oral and documentary evidence was produced on the side of the defendants to disprove the claim of the plaintiff, who had sought for recovery of his two months salary as well as a sum of Rs.10,000/- as compensation towards mental agony and loss of reputation, which is supported by documentary evidence in the form of Exs.A1 to A9. The details of the exhibits marked on the side of the plaintiff are as follows:

“வா.சா.ஆ.1	24.03.2000	பணி நியமன ஆணை
வா.சா.ஆ.2	17.10.2002	ஒப்பந்தம்



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வா.சா.ஆ.3	30.04.2003	பணியில் இருந்து விடுவித்ததற்கான உத்தரவு
வா.சா.ஆ.4	06.06.2003	வாதிக்கு அனுப்பப்பட்ட மிரதிவாதியின் கடிதம்
வா.சா.ஆ.5	28.08.2003	வாதியின் கடிதம்
வா.சா.ஆ.6	27.10.2003	வாதியின் கடிதம்
வா.சா.ஆ.7	31.10.2003	வாதிக்கு மிரதிவாதி அனுப்பிய கடிதம்
வா.சா.ஆ.8	20.12.2005	வாதியின் கடிதம்
வா.சா.ஆ.9	10.10.2005	வாதியின் கடிதம்.”

10. The plaintiff has proved that he was an employee of the defendants and he was working as a Consultant for them on monthly salary basis. He has also proved as rightly held by the Courts below, which is substantiated by his documentary evidence that he has been illegally terminated from the service. The defendants have not followed the due procedure as stipulated under the Contract of Employment, by giving the plaintiff two months prior notice before terminating his service.



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11. Without issuing any notice, the defendants have terminated the service of the plaintiff. The defendants have also not paid the plaintiff his monthly salary for two months. Having been illegally terminated, the plaintiff would have certainly suffered mental agony and loss of reputation, for which the Courts below have directed the defendants to pay the plaintiff a compensation of Rs.10,000/-.

12. This Court does not find any infirmity in the findings of the Courts below, which have decreed the suit in favour of the plaintiff as prayed for in the plaint by awarding a sum of Rs.50,000/- towards two months salary payable to the plaintiff and another sum of Rs.10,000/- as compensation for mental agony and loss of reputation suffered by the plaintiff.

13. For the foregoing reasons, the substantial questions of law formulated by this Court on 09.08.2017, which have been extracted supra are answered against the appellants / defendants, by holding that the Courts below have rightly held that the defendants are liable to pay the decretal amount as decreed by the trial Court and confirmed by the lower



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appellate Court. There are no debatable issues of law or fact involved for further consideration by this Court under Section 100 of CPC.

14. In the result, this Second Appeal is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
NCC : Yes / No
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TO:

- 1.The Additional Subordinate Judge, Thanjavur.
- 2.The District Munsif, Thanjavur.
- 3.The Section Officer, VR Section,
Madurai Bench of Madras High Court,
Madurai.



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ABDUL QUDDHOSE, J.

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Judgment made in
S.A.(MD)No.338 of 2017

Dated:
13.06.2023